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Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories

Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem

Report of the Secretary-General*

Summary

The present report has been prepared by the Office of the United Nations High Commissioner for Human Rights, pursuant to General Assembly resolution 69/93. It focuses on the Israeli practices affecting the human rights of Palestinians in the Occupied Palestinian Territory, with a particular focus on the Gaza Strip in the aftermath of the 2014 escalation and factors affecting reconstruction and recovery in Gaza. It provides updates on accountability measures by duty bearers and treaty accession by the State of Palestine.

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I. Introduction

1. The present report covers the period from 16 May 2014 to 31 May 2015. It is based primarily on monitoring and other information-gathering activities carried out by the Office of the United Nations High Commissioner for Human Rights (OHCHR) and other United Nations entities and non-governmental organizations (NGOs) in Israel and the Occupied Palestinian Territory.

2. The report should be read in conjunction with the report of the Secretary-General on Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem and the Occupied Syrian Golan (A/70/351) and other recent reports of the Secretary-General and the High Commissioner for Human Rights (A/HRC/28/80 and Add.1, A/HRC/28/44 and A/HRC/28/45).

3. The report focuses on the factors that continue to prevent Palestinians from enjoying their human rights, one year after the escalation in hostilities[1] in the Occupied Palestinian Territory in the summer of 2014. It presents an analysis of how the continuing blockade of Gaza is undermining reconstruction and recovery efforts, including as regards the economy and the provision of basic public services. It also provides an update on the situation in the West Bank, including East Jerusalem, and an explanation as to how lifting the blockade and accountability for violations and abuses of human rights and international humanitarian law are prerequisites for sustainable peace and security.

4. Israel granted access to the Gaza Strip to the United Nations Board of Inquiry to conduct field visits from 26 November to 13 December 2014. However, the refusal of Israel to cooperate with the independent commission of inquiry established pursuant to Human Rights Council resolution S-21/1 and other mechanisms, including the Special Rapporteur on the situation of human rights in the Palestinian Territories occupied since 1967, remains of serious concern. Access to Israel and entry into the Occupied Palestinian Territory has been repeatedly denied to those entities.

II. Legal framework

5. International human rights law and international humanitarian law are applicable in the Occupied Palestinian Territory. A detailed analysis of the applicable legal framework, including the basis of the legal obligations of the duty bearers, can be found in reports A/HRC/12/37 (paras. 5-9) and A/69/347 (paras. 3-6) and remains valid.

[1] The term "escalation in hostilities" refers to the period between 8 July and 26 August 2014, referred to by Israel as "Operation Protective Edge".

III. Implementation of General Assembly resolution 69/93

A. The increase in violence in the Occupied Palestinian Territory from June to August 2014

6. The first half of the reporting period, from May to November 2014, witnessed alarming levels of violence and violations of international human rights law and international humanitarian law. A marked deterioration in the human rights situation across the West Bank, including East Jerusalem, and an intensification of hostilities between Israeli forces and Palestinian armed groups from early June 2014 preceded an Israeli military operation launched in Gaza on 7 July, which, apart from some short ceasefires, continued until a ceasefire agreement on 26 August. Tensions, however, remained high until November 2014, particularly in Jerusalem. Those events and related human rights violations have been covered extensively in a number of reports (A/HRC/27/76 and A/HRC/28/80 and Add.1) and were the subject of the independent commission of inquiry, which reported to the Council in June 2015 (A/HRC/29/52 and A/HRC/29/CRP.4).

7. The scale of destruction, displacement and humanitarian needs in Gaza during and following the escalation of hostilities was unprecedented. According to the most recent figures compiled by the Protection Cluster,[2] 2,251 Palestinians were killed during the 51-day military operation.[3] Of those, 1,462 were civilians, including 299 women and 551 children. According to statistics received from the Palestinian Ministry of Health, 10,670 Palestinians sustained injuries during that time, including 2,070 women and 3,551 children. According to Israeli official sources, 67 Israeli soldiers and six civilians (including one child and one Thai national) were killed, while over 1,600 civilians were injured during the escalation.[4]

8. According to the Office for the Coordination of Humanitarian Affairs, at the peak of the escalation, approximately 500,000 Palestinians — almost one third of the entire population of Gaza — were internally displaced.[5] Over 19,000 housing units[6] were totally destroyed or severely damaged and 150,000 units suffered damage, including 6,285 with major damage.[7] According to the United Nations Children's Fund (UNICEF), 281 schools and three universities were also damaged.[8] More than half the hospitals and health centres in Gaza were damaged or destroyed, which severely affected the capacity of the health sector to respond to the increased workload during and after the escalation.[9]

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[2] The mechanism coordinating humanitarian action by United Nations and non-United Nations humanitarian organizations working in the protection sector. OHCHR leads the Protection Cluster in the Occupied Palestinian Territory.

[3] Data as of 31 May 2015. For methodology, see A/HRC/28/80/Add.1, para. 24.

[4] State of Israel, "The 2014 Gaza conflict (7 July-26 August 2014): factual and legal aspects", May 2015.

[5] Office for the Coordination of Humanitarian Affairs, "Gaza crisis, facts and figures", available from www.ochaopt.org/content.aspx?id=1010361.

[6] The Shelter Cluster defines a "housing unit" as a house or an apartment occupied by a group of people related to each other, forming a nuclear and/or extended family. In some cases, it may include more than one family.

[7] Shelter Cluster Palestine factsheet, May 2015, available from www.shelterpalestine.org/.

[8] UNICEF, "Gaza's children: six months after the ceasefire", 26 February 2015.

[9] Health Cluster in the Occupied Palestinian Territory, "Joint health sector assessment report", Gaza, September 2014.

9. The scale of the damage has been exacerbated by the devastation to the economy caused by the persistence of the illegal blockade by Israel and by two previous rounds of hostilities over the last eight years.[10]

10. A high number of fatalities and injuries also occurred outside the escalation of hostilities. According to the Office for the Coordination of Humanitarian Affairs, during the reporting period, 51 Palestinians, including 11 children, were killed, 5,880 Palestinians, including 1,119 children, were injured by Israeli security forces in the West Bank and East Jerusalem and nine Israeli deaths were reported in the West Bank.[11] In Gaza, in addition to those killed and injured during the escalation of hostilities, 20 Palestinians were killed and 151 injured during the rest of the reporting period.

B. The situation in Gaza one year after the ceasefire

The scale of destruction

11. The humanitarian crisis in Gaza resulting from the 2014 hostilities compounded an already precarious situation, further undermining the enjoyment by the inhabitants of their economic and social rights, including the rights to housing, water and health. Due to the significant delay in reconstruction efforts and shortages in funding, approximately 100,000 Palestinians remained displaced nearly a year after the ceasefire. Most of them continued to live precariously, crowded into temporary accommodation or with host families.

12. In addition, Palestinians living in Gaza continued to struggle for access to basic services, such as electricity, clean water and health services. The destruction of water and sanitation facilities and the shelling of the only power plant in Gaza in 2014 have aggravated the electricity crisis that began with the Israeli airstrike on the power plant in 2006. According to the Palestinian Water Authority, 97 per cent of the natural water in Gaza is unfit for human consumption and 90 million litres of raw or partially-treated sewage is dumped into the Mediterranean Sea daily.

13. Only moderate progress has been made to reconstruct and rehabilitate the health facilities damaged during the escalation of hostilities. Gaza remains contaminated, with 7,000 explosive remnants of war and many unexploded bombs, tank shells and other munitions present.

Reconstruction and recovery needs

14. A series of assessments of damage and reconstruction needs indicated that the hardest-hit areas included Beit Hanoun, Shuja'iyah and eastern Khan Younis. Those initial assessments formed the basis of the national early recovery and reconstruction plan for Gaza for the period 2014-2017 (the plan), which was prepared by the Government of national consensus to plan the transition from crisis recovery to long-term development. Presented at a donor conference in Cairo, the total cost of relief, recovery and reconstruction estimated in the plan was $4 billion. The international community pledged $5.4 billion (including $2.5 billion in new

[10] World Bank, "Economic monitoring report to the Ad Hoc Liaison Committee", 27 May 2015.

[11] See Office for the Coordination of Humanitarian Affairs, "Life, liberty and security", available from www.ochaopt.org/content.aspx?id=1010057.

funding), of which $3.5 billion was intended to support Gaza.[12] Less than a third of that amount had been disbursed by the end of the reporting period.

Factors hampering reconstruction and recovery efforts

15. Under the recovery and reconstruction plan, some progress has been achieved in reconstruction. Nevertheless, serious practical and political obstacles to the rapid reconstruction efforts envisaged at Cairo are exacerbating the human rights impact of the destruction. Israel has continued to impose its blockade of Gaza in violation of international law (see A/HRC/24/30, paras. 21-23), which remains the most important obstacle to sustainable recovery in the Gaza Strip and to enjoyment by its inhabitants of their economic, social and cultural rights. The severe restrictions imposed by Israel on Palestinian freedom of movement in and out of Gaza and between Gaza and the West Bank seriously undermine the enjoyment of other rights by Palestinians, in particular the rights to work, health, education, housing and an adequate standard of living, as well as their right to marry, to family life, to travel and to practise their religion.

16. As consistently documented by the Secretary-General (see A/69/347 and A/HRC/28/45), the blockade had severely damaged the economy of Gaza, even before the 2014 escalation. The unemployment rate in Gaza is the highest in the world, standing at 43 per cent.[10] According to the World Bank, the blockade has reduced the economy of Gaza to a fraction of its estimated potential. Real per capita income is 31 per cent lower than it was 20 years ago, considering that the population has increased by approximately 230 per cent during that period.[10] Restrictions on imports and exports and the transfer of goods to and from the West Bank have exacerbated the lack of economic development and have further entrenched poverty and conflict in the Gaza Strip.[13]

17. The human cost of the blockade has been enormous. The limited availability of electricity and potable water, the shortage of medical supplies, the perpetuation of reliance on food aid and the collapse of the industrial and agricultural sectors had resulted in a humanitarian crisis and a substandard quality of life even before the 2014 escalation. Food insecurity has increased significantly, from 57 per cent on 2 June 2014[14] to 73 per cent during the first quarter of 2015.[15] Psychological trauma caused by the repeated escalations of hostilities has exacerbated the crisis.

18. A range of materials, including many essential building materials, such as cement, are restricted by the Israeli blockade of Gaza. Between 27 August 2014 and 30 April 2015, only 7,500 truckloads of construction materials, mainly cement, aggregate and steel bars entered Gaza. In October 2014, the Shelter Cluster estimated that 800,000 truckloads were required to meet housing needs in Gaza

[12] Conclusions by the Chair, Cairo conference on Palestine, 12 October 2014, available from unispal.un.org/UNISPAL.NSF/0/79CE488FCCFD513B85257D70006E047E.

[13] See Association of International Development Agencies, "Reconstructing Gaza: five principles for transformative change", 3 October 2014.

[14] Palestine Central Bureau of Statistics and United Nations joint press statement (PCBS-FAO-UNRWA-WFP), "Food insecurity in Palestine remains high", 3 June 2014.

[15] Office for the Coordination of Humanitarian Affairs, annual humanitarian bulletin, March 2015.

caused by the destruction of homes in recurring escalations and a chronic housing deficit.[16]

19. The Gaza reconstruction mechanism, a temporary arrangement established under an agreement between the Palestinian and Israeli authorities brokered by the United Nations, is designed to enable the entry into Gaza of what Israel classifies as "dual use" materials[17] and of heavy machinery. "Dual use" materials include aggregate, metal bars and cement, the main construction materials. In 2015, Israel expanded the list of items classified as dual use, adding items such as timber, claiming it was used in Gaza for the construction of military tunnels.[18]

20. After a slow start, use of the reconstruction mechanism by stakeholders has increased substantially but the pace of reconstruction overall remains inadequate, partly due to limited donor funding. As of 31 May 2015, not a single fully destroyed home had been rebuilt, but approximately half the families affected by damaged homes had received construction materials under the mechanism.[19]

21. Palestinian civil society organizations have questioned whether the mechanism "institutionalizes the Israeli blockade".[20] They have also expressed concern that, since most construction materials imported into Gaza originate from Israel, the latter has benefited from the reconstruction effort that its actions necessitated.[21]

22. The reconstruction mechanism is a temporary measure, only necessary because of the blockade. Senior United Nations officials have repeatedly noted that it cannot be a substitute for the complete lifting of the blockade, but can be an important initial step towards the implementation of Security Council resolution 1860 (2009).

Restrictions on free movement of people and goods

23. During the reporting period, Israel continued to enforce severe restrictions on movement in and out of Gaza. The Erez checkpoint remained closed to any Palestinian other than those holding specific categories of Israeli-issued permits. Throughout the reporting period, access to the West Bank, including East Jerusalem,

[16] 441 truckloads of building materials are needed daily to meet housing needs within five years, or 735 truckloads daily to meet housing needs within three years. Those figures are based on the estimated need of 100,334 housing units, including the replacement of 20,000 units destroyed or severely damaged during the escalation of hostilities in 2014 and of 5,000 units outstanding from previous military operations, and 75,334 units to reduce the large housing deficit arising from natural growth rates, based on needs in 2011. That calculation does not include public infrastructure (e.g. schools, utilities, etc.). See Shelter Cluster, "Gaza response update", 11 October 2014, available from www.shelterpalestine.org/.

[17] Material and equipment, which Israel alleges can be used for terror attacks.

[18] Lumber pieces that are 20 to 25 cm wide and more than 5 cm thick. See Gisha — Legal Center for Freedom of Movement, "COGAT decision to restrict entrance of wood to Gaza", 13 April 2015.

[19] In total, 12,620 housing units were fully destroyed and another 156,420 units suffered minor to severe damage. See Shelter Cluster factsheet, May 2015, available from shelterpalestine.org/factsheetdetails.aspx?id=10109.

[20] Palestinian NGOs Network, "Palestinian NGOs Network and human rights organizations urge U.N. Secretary-General to push for immediate lifting instead of legitimization of closure over the Gaza Strip", 15 October 2014 and Palestinian Centre for Human Rights, "Gaza under closure and rubble, UN mechanism to reconstruct Gaza fails and the only solution is lifting the closure", 11 March 2015.

[21] EurActiv, "EU source: Gaza reconstruction aid is 'made in Israel'", 3 September 2014.

to Israel and to other countries was blocked for the majority of Palestinians in Gaza.[22]

Issuance by Israel of permits to exit Gaza through Erez crossing during the reporting period (with monthly average in brackets)[a]

	May-June 2014	*July-August 2014*	*September 2014-April 2015*
No. of Palestinians crossing	11 207 (5 604)	2 715 (1 358)	85 615 (10 702)
No. of medical patients granted exit permits	5 939 (2 970)	1 499 (750)	9 973 (1 247)
No. of medical patients denied exit permits	70 (35)	90 (45)	377 (47)
No. of patients whose treatment was delayed due to lack of permit	537 (269)	450 (225)	1 930 (241)

Sources: Gisha Legal Center for Freedom of Movement and World Health Organization.

[a] Figures cover the reporting period from May 2014 to April 2015 showing the totals for the periods before, during and after the escalation. The monthly average in brackets is to facilitate comparison.

24. Those restrictions have affected a wide range of other human rights, particularly the right to health. Due to chronic shortages of drugs and the lack of adequate medical care in Gaza, especially following the escalation in 2014, Gazans requiring specialist health care are dependent on a system of referrals outside Gaza, which requires permits from the Israeli authorities. Although there was a significant decrease in approval rates of permit applications to 65 per cent during the escalation,[23] approval rates have generally remained steady throughout the reporting period at around 80 per cent. Of the remaining 20 per cent of applicants, approximately 15 per cent did not receive positive answers to their applications in time for hospital appointments, thereby suffering from a delay in care, and the remaining 5 per cent were denied permission. By comparison, in 2012, only 7.5 per cent of permit applications by patients were denied or delayed. The percentage has since increased every year.

25. On 16 February 2015, Israel increased the quotas for permits to exit through Erez for specific categories of persons: patients requiring medical treatment in Israel (but not deemed a medical emergency) from 80 to 120 per day and traders from 400 to 800 per day. While this could be seen as a positive development, the notion of quotas for medical treatment raises serious human rights concerns. Timely access to medical care ought to be based on clinical need, as determined by a medical expert, and not restricted by an arbitrary quota.

26. The effects of the restrictions on freedom of movement in and out of Gaza through Erez have been exacerbated by the severe restrictions and eventual closure of the Rafah crossing by the Egyptian authorities (see A/69/347, paras. 31-32). Rafah was closed on 24 October 2014, following a suicide attack on Egyptian

[22] See Gisha, "The Gaza cheat sheet", July 2015.

[23] See WHO monthly report on referral of patients from the Gaza Strip, April 2015, available from www.emro.who.int/pse/publications-who/monthly-referral-reports.html.

soldiers in Sinai and was open intermittently for only 15 days during the rest of the reporting period,[24] allowing 4,033 people to exit and 6,731 to enter Gaza.[25] That compares with an estimated 2,046 persons exiting Gaza through Rafah on a weekly basis before the closure.[26]

27. Restrictions on the movement of goods remain. In June 2007, Israel imposed a sweeping ban on the sale of goods from Gaza to the West Bank and Israel, where 85 per cent of exports from Gaza had been sold prior to the ban.[27] By May 2014, imports stood at 33.48 per cent and exports at 1.66 per cent of the pre-blockade level. According to the Israeli unit for coordination of government activities in the territories, 5,779 trucks entered Gaza during the hostilities in the summer of 2014 containing hundreds of tons of food and non-food items, including medicines, electrical items and items to repair water, sewage and communication networks, as well as fuel.[28] However, those supplies were inadequate owing to the chronic shortage of medical supplies and equipment, the high demand resulting from the overwhelming number of injuries and the high level of food insecurity aggravated by unprecedented numbers of internally displaced persons.[29]

28. The Government of Israel has eased some measures since the ceasefire. In November 2014, it began to allow the sale of some goods from Gaza in the West Bank, easing the seven-year ban, and in March 2015 it began allowing the sale of some Gaza-grown agricultural products in Israel for one year only.[30] Between 1 September 2014 and 30 April 2015, 43,098 trucks containing goods entered Gaza. During the same period, 443 trucks exited Gaza with exports and goods to be transferred to the West Bank. Although the increased number of trucks carrying goods in and out of Gaza since the end of the escalation of hostilities is a positive development, imports and exports nonetheless remained significantly lower than the pre-blockade level — at 43 per cent and 1 per cent respectively — far from the export potential of Gaza.

29. The closure of Rafah, Israel's blockade and the 2014 escalation all contributed to a further deterioration in the economic, humanitarian and human rights crisis in Gaza. The blockade remains a form of a collective punishment of the civilian population (see A/HRC/24/30, paras. 21-23), undermining economic, social and cultural rights, as well as civil and political rights. Gross violations of such rights

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[24] Office for the Coordination of Humanitarian Affairs, "Gaza crossings operation status monthly update", May 2015.

[25] Office for the Coordination of Humanitarian Affairs, "Rafah crossing: movement of people into and out of Gaza", available from www.ochaopt.org/gazacrossing/index.aspx?id=2.

[26] Office for the Coordination of Humanitarian Affairs, protection of civilians weekly report, 13-19 May 2014.

[27] In March 2012, the Israeli authorities allowed an exception to the ban on the sale of goods from Gaza to the West Bank for the first time in five years. However, a broader easing of restrictions did not come until November 2014. See Gisha, "First time in 5 years: goods sold from Gaza to West Bank", available from gisha.org/updates/1759.

[28] Ministry of Defense, Operation Protective Edge, daily report on civilian assistance to Gaza, 27 August 2014.

[29] Office for the Coordination of Humanitarian Affairs, "Gaza initial rapid assessment, 27 August 2014", published on 9 September 2014 and "Occupied Palestinian Territory: Gaza emergency situation report (as of 4 September 2014)".

[30] This was done to accommodate the Jewish custom of *shmita*, which requires agricultural land to rest every seven years. See Gisha, "Exit of goods from Gaza via Kerem Shalom crossing", available from gisha.org/graph/2401.

have been among the root causes of the ongoing conflict and failures to address such violations can undermine recovery from conflict (see A/HRC/28/45, paras. 34-42). The continuing degradation of the economy in Gaza, coupled with the destruction of families, homes and livelihoods, creates despair and a recruiting ground for extremism. The stated rationale of the Israeli Government for imposing the blockade in 2007 and undertaking numerous military operations in the Gaza Strip was to protect the security of Israelis. However, those actions have directly contributed to a steady deterioration of the human rights situation in Gaza. It is difficult to see how that state of affairs addresses Israeli security concerns.

Access restricted areas

30. The Israel Defense Forces have continued to enforce a buffer zone, known as the access-restricted areas, which severely restricts access to land and sea. The access-restricted areas are enforced through various means, including the use of live fire and the destruction, damage and confiscation of property on land and at sea.[31] The exact parameters of the areas remain unclear, but the area within 300 metres of the fence between Gaza and Israel is generally considered by the local population, civil society and international organizations to be a "no-go" area and anywhere up to 1,500 metres is considered as high risk.

31. During the reporting period,[32] 4 Palestinians, including 2 children, were shot dead and 80 were injured by Israeli security forces enforcing the access-restricted areas. In one case monitored by OHCHR, on 23 November 2014 Israel Defense Force soldiers shot and killed a 32-year-old Palestinian man while he was reportedly attempting to trap birds using a net east of Jabaliya, in an area around 100 metres from the fence. Information collected by OHCHR indicates that the man was unarmed and did not pose any threat when he was shot, reportedly without warning.

32. Thirty-six of the 80 Palestinians injured in the access-restricted areas were wounded by the Israel Defense Forces during demonstrations, including 33 reportedly by live ammunition. OHCHR has serious concerns regarding the general approach of the Israel Defense Forces to demonstrations commonly held on Fridays in Jabaliya and east of Khan Younis. Those demonstrations are often attended by a large number of people, some of whom are reported to approach the separation fence and throw stones. OHCHR has documented that the Israel Defense Forces often respond with tear gas and live ammunition, even though demonstrators do not generally appear to pose a threat that might justify such use of force, particularly as they are generally separated by the main fence and often by an additional concertina razor-wire fence.

33. According to the Office for the Coordination of Humanitarian Affairs, farmers indicated a high perceived risk from undertaking agricultural activities within several hundred metres of the fence after the hostilities in 2014.

34. At sea, the Israel Defense Forces enforce a 6 nautical mile fishing limit along the entire Gaza coast, with a 1.5 nautical mile "no fishing zone" along the maritime boundaries between Gazan waters and Israel in the north and Egypt in the south.

[31] OHCHR/Protection Cluster monthly update, December 2014 and January 2015, available from www.lacs.ps/documentsShow.aspx?ATT_ID=19449.

[32] Excluding the escalation in July-August 2014, since the access-restricted areas were severely affected by the Israeli ground operation.

The vast majority of recorded incidents at sea have occurred within the six mile limit.[31]

35. The measures taken by the Israeli navy to enforce the maritime restrictions, including the use of live fire, continue to put fishermen's lives at risk and result in casualties. For instance, on 7 March 2015 a 32-year-old fisherman was shot and killed by the Israeli navy while reportedly building up his own artificial reef (to increase his fishing catch) approximately five nautical miles off the Gaza shore, west of Gaza city.[33] Israeli military sources reportedly claimed that the navy opened fire after a number of vessels had deviated from the designated fishing zone and did not halt upon request, but there was no indication that the fisherman posed any threat.

36. Israeli authorities routinely detain fishermen arbitrarily and confiscate and/or damage their fishing boats and equipment. According to the Protection Cluster, during the reporting period, 61 fishermen were detained and 14 were injured, while 25 fishing boats were confiscated and 12 were destroyed or damaged. Fishing equipment from numerous boats and fishing nets were damaged or lost as a result of attacks by the Israeli Navy.

37. Israel's enforcement of the access-restricted areas at sea continues to devastate the Palestinian fishing industry, denying fishermen access to the richest fishing areas and forcing them to fish in waters that are overfished and heavily polluted owing to the destruction of the sewage system during the escalation.[34] Damage to, or destruction or confiscation of, fishing equipment prevents fishermen from earning a livelihood. According to the Office for the Coordination of Humanitarian Affairs, the access-restricted areas on land account for 17 per cent of the total land mass of Gaza, meaning that 35 per cent of the available agricultural land in Gaza is unsafe for Palestinians to use. The access-restricted areas therefore have a severe impact on the right to work of fishermen and farmers alike and deprive them and their families of their right to an adequate standard of living.

38. The fishing industry was also adversely affected by the 2014 escalation. An estimated 700-800 fishermen lost their livelihoods as 16 small fishing boats were completely destroyed and 45 boats were partially damaged.[35] Fuel shortages have prevented many fishermen and farmers from working.

C. Situation in the West Bank, including East Jerusalem

39. The following update on selected concerns in relation to the situation in the West Bank, including East Jerusalem, should be read in conjunction with recent reports of the Secretary-General and the High Commissioner for Human Rights (A/HRC/28/80 and Add.1, A/HRC/28/44, A/HRC/28/45 and A/70/351). Those reports highlight a situation of increased violence and violations, which were

[33] The Independent, "The Gaza fisherman who built his own reef — and was shot dead there by an Israeli gunboat", 29 March 2015.

[34] Food Security Sector, "Report of the rapid qualitative assessment of the livelihood conditions of agricultural producers in the Gaza Strip", December 2014.

[35] Food Security Sector, "Report of the rapid qualitative emergency food security assessment, Gaza Strip", October 2014.

eclipsed by the Gaza escalation but still of serious concern. The situation remained volatile through to the end of 2014, especially in East Jerusalem.

40. During the reporting period, the Office for the Coordination of Humanitarian Affairs recorded 51 Palestinian fatalities, including 11 children, and 5,880 injuries, including 1,119 children, in incidents involving Israeli security forces. That compares to 31 Palestinian fatalities, including five children, and 2,541 injuries, including 849 children, between 16 May 2013 and 15 May 2014.

41. Twenty-seven of the fatalities recorded during the reporting period, including five children, were caused in incidents involving Israeli security forces between 1 June and 31 August 2014. At least half of those killings occurred during clashes that erupted following protests against the Gaza hostilities and restrictions on access to the Al-Aqsa Mosque, while seven deaths resulted from confrontations during search and arrest operations.[36] According to the Office for the Coordination of Humanitarian Affairs, there were 10 Palestinian fatalities in the first five months of 2015 and 9 Israeli fatalities in a context of heightened tensions and violence in the West Bank, including East Jerusalem.[37] The Israeli Security Agency (Shabak) reported to the Knesset a sharp rise in "popular resistance" incidents (for example, stone-throwing, fire bombs, car-ramming and stabbing) in the West Bank.

Threat of forcible transfer of Bedouin communities in the central West Bank

42. During the reporting period, Bedouin in the central West Bank — the vast majority of whom are refugees registered with the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) — have been under renewed and imminent threat of forcible transfer by the Israeli military, in violation of international law.

43. The Israeli "relocation" plans, including the Nweima, Al-Jabal and Fasayil plans, envisage the move of up to 7,000 Palestinian Bedouin to urban townships adjacent to Jericho near the Jerusalem municipal garbage dump and in the Jordan valley. That will pave the way for Israeli settlement expansion in the E1-Maale Adumim area on the periphery of Jerusalem. Additional settlements in the E1 area will further undermine the viability of a contiguous Palestinian State, Palestinian right to self-determination and prospects for peace (see A/70/351).

44. During the reporting period, the Israeli Civil Administration advanced plans for the development of Nweima township. Objections to the plan were raised by community representatives before the Administration subcommittee authorized approval of the plans. The objections, including highlighting the failure to consult with the local communities, succeeded in temporarily freezing the process. Hearings before the subcommittee were continuing at the end of the reporting period.

45. Meanwhile, preparations for the transfer of the Bedouin from Abu Nwar to the Al Jabal site have been moving ahead. The ground work to prepare the site started in early February 2015. On 11 February, the Israeli Civil Administration appointed a retired Israel Defense Force Brigadier-General to lead a "mediation" aimed at reaching a compromise with the Bedouin communities, including those at Abu

[36] Office for the Coordination of Humanitarian Affairs, humanitarian bulletin monthly report, June-August 2014.

[37] See also Office for the Coordination of Humanitarian Affairs, protection of civilians weekly report, 26 May-1 June.

Nwar. On 28 April 2015, the mediator informed the community that they would not be allowed by the Administration to remain in their current location but would be slated for full "relocation" and that 34 families should sign up to the Al Jabal site within one month. The community have rejected the proposal and demanded either to return to their ancestral lands in the Negev, or to remain in Abu Nwar with proper services.

46. Those developments arise in the context of an already coercive environment in the West Bank, which is getting worse with the issuance of numerous stop-work and demolition orders and demolitions of residential, livelihood-related and donor-funded humanitarian structures. Following a visit to Abu Nwar village in May 2015, the Humanitarian Coordinator for the Occupied Palestinian Territory and the Director of Operations in the West Bank for UNRWA expressed concern at possible breaches of the Fourth Geneva Convention and said that the plans, if implemented, would represent a continuation of developments that had commenced in 1997, when Palestine refugees were loaded onto trucks and taken to the same urban site in Eizariya, after which an illegal settlement was constructed on their former land.

D. Accountability for human rights and humanitarian law violations

47. The 2014 escalation in hostilities mirrors previous escalations in 2008-2009 and 2012, which resulted in large-scale destruction and loss of life. Despite calls by the international community for proper accountability for international human rights and humanitarian law violations, impunity continues to prevail, both in relation to the escalations and violations outside those periods. For a detailed analysis of the escalations and the impunity for serious violations that has prevailed, see recent reports of the Secretary-General and the High Commissioner for Human Rights (A/HRC/12/48, A/HRC/22/35/Add.1, A/HRC/28/80/Add.1, A/HRC/28/45, paras. 14-17, and A/69/347, paras. 52-69).

48. Impunity for violations committed in the West Bank, including East Jerusalem, also remains of concern (see A/69/347, paras. 52-69). Of 62 incidents that led to Palestinian fatalities involving the Israel Defense Forces between April 2011 (when a new policy to investigate all cases of Palestinian deaths in non-combat situations was initiated by the Military Advocate General) and 31 May 2015, recorded by the Israeli organization B'tselem, only 2 have resulted in indictments. Nine cases were not investigated at all, while a further 11 were closed without indictment. The remaining cases were pending at various stages of the legal process at the end of July 2015.[38]

Impunity as a driver of conflict

49. The Secretary-General and the High Commissioner for Human Rights have both repeatedly emphasized the need to ensure accountability for violations of international human rights and humanitarian law for all duty bearers, in accordance with their obligations under international law (see A/HRC/22/35, paras. 66-82, A/HRC/28/45, paras. 26-33 and A/69/347, paras. 52-69, 81 and 84). Effective accountability not only ensures that perpetrators are brought to justice, but also

[38] B'tselem, "Follow-up: military police and MAG Corps investigations of civilian Palestinian fatalities in West Bank since new policy imposed", 30 July 2015, available from www.btselem.org/accountability/military_police_investigations_followup.

ensures that victims have access to remedies and serves to deter future violations and to try to repair the harm suffered.

50. International law requires that allegations of violations are promptly, thoroughly, effectively, independently, impartially and transparently investigated and that perpetrators are brought to justice. Accountability for human rights violations and abuses and violations of international humanitarian law are prerequisites for creating the conditions for sustainable peace and security.

51. As the Secretary-General has stated, "The build-destroy, build-destroy cycle must be broken ... there must be accountability and I again repeat my call for accountability. Those who have committed criminal acts, those who have violated international humanitarian law must be investigated and brought to justice ... without addressing fundamental root causes there cannot be any sustainable peace and security."[39]

Israeli domestic accountability

52. In September 2014, the Chief of Staff of the Israel Defense Forces ordered that a General Staff "mechanism for fact-finding assessments" (the mechanism) should examine "exceptional incidents" that occurred during the 2014 hostilities.[40] The mechanism was established in response to the recommendations of the Turkel Commission.[41]

53. As of 31 May 2015, Palestinian human rights organizations had documented 378 cases and submitted 236 cases to the mechanism, requesting that criminal investigations be opened.[42] According to information published on 11 June 2015, the Military Advocate General had conducted initial examinations of 126 "exceptional incidents". Seventeen cases have been closed, including two cases on the disputed claim that the complainants had failed to appear to provide testimony before the Military Police Criminal Investigations Division.[43] The mechanism has opened seven investigations following a review and the Military Advocate General has opened 13 criminal investigations without a prior examination by the fact-finding assessments mechanism.[44] The Military Advocate General, however, has issued only one criminal indictment so far, in relation to a minor case involving looting by Israeli soldiers in Shuja'iya, on 20 July 2014.[45] The remaining cases are pending a decision by the Military Advocate General.

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[39] Secretary-General's press encounter in Gaza, 14 October 2014, available from unispal.un.org/UNISPAL.NSF/0/4CFAB898E2F52AF685257D710051116A.

[40] Israel Defense Forces Military Advocate General's Corps (IDF MAG Corps), "Operation Protective Edge: examinations and investigation", 10 September 2014, available from www.mag.idf.il/261-6858-en/Patzar.aspx.

[41] The Turkel Commission, established to investigate the Gaza flotilla raid in May 2010, was mandated to review Israel's mechanisms for investigating alleged violations of the laws of armed conflict and made specific recommendations to strengthen those mechanisms.

[42] The Palestinian Center for Human Rights referred 76 files and the Al Mezan Center for Human Rights referred 89 files to the mechanism for review and investigation.

[43] IDF MAG Corps, "Decisions of the IDF MAG regarding exceptional incidents that allegedly occurred during Operation Protective Edge", update No. 4, 11 June 2015, available from www.law.idf.il/163-7353-en/Patzar.aspx.

[44] BBC News, "Israel orders criminal investigations into Gaza war incidents", 11 September 2014.

[45] Haaretz, "Israeli army indicts three soldiers for looting during Gaza war", 26 April 2015.

54. Palestinian organizations are in the process of collecting information in relation to an additional 150 cases that need to be filed. Notifications of intention to file civil compensation claims for loss of life and property on behalf of 1,349 Palestinians have also been submitted to the Israeli Ministry of Defence by NGOs.

55. The investigations carried out by the mechanism and reviewed by the Military Advocate General are steps towards establishing accountability for alleged victims in Gaza. However, there are three significant weaknesses. First, the mechanism and the Military Advocate General are not independent of the Israel Defense Forces. In that regard, Palestinian groups have observed that alleged victims and witnesses have not gone to Erez to provide their testimony before the Military Police Criminal Investigations Division for fear of reprisals or arrest by the Israel Defense Forces, as this routinely happens to many Palestinians passing through Erez.

56. Second, the dual role of the Military Advocate General as legal adviser and investigator creates a conflict of interest and can undermine impartiality.

57. Thirdly, the mechanism is only mandated to investigate "exceptional incidents". It is unlikely, therefore, to address all incidents that should trigger Israel's duty to investigate, such as aerial and naval strikes that appear to be disproportionate and/or indiscriminate given the high number of civilian casualties in Khuzza'a; ground operations in Beit Hanoun and Shuja'iya, where there was a possible failure to take all feasible precautions to protect civilians; shelling and bombardment in Rafah in response to the apparent capture of an Israeli soldier; and the attacks on hospitals and other civilian objects that are afforded special protection under international humanitarian law (see A/HRC/28/80/Add.1, paras. 32-63). Full accountability requires that investigations are not limited to a few incidents and that they address the failure to respect international law at the policy level.

58. The decision of the Military Advocate General on 11 June 2015 to close the investigation into the Gaza beach attack of 16 July 2014, which killed four children, highlights the inherent weakness of the mechanism and the lack of independence of the Military Advocate General. The latter failed to interview eyewitnesses in the case, including international journalists, and only invited one Gazan witness to provide an oral testimony.[46] After reviewing the testimony of Israel Defense Force soldiers, the Military Advocate General found that the professional discretion exercised by all the commanders involved in the incident had not been unreasonable, despite the fact that the identification of the children as militants from Hamas naval forces was an error.

59. Apart from the 2014 escalation in hostilities, Palestinian organizations note that two cases were filed with the Military Advocate General during the reporting period in relation to incidents of shootings by the Israel Defense Forces in the access-restricted areas. One case has been opened for investigation while there has been no response in relation to the other case. In both cases, the alleged victims were 16 years old.

60. The Secretary-General and the High Commissioner for Human Rights have highlighted serious concerns regarding the lack of accountability following previous cycles of violence and escalations in Gaza and in relation to incidents in the West Bank including East Jerusalem, and apart from escalations, including in the access-

[46] Al Mezan and Adalah, "Israeli investigation system is fundamentally flawed. The army cannot investigate itself", 15 June 2015, available from www.adalah.org/en/content/view/8581.

restricted areas of the Gaza Strip (see A/68/502, paras. 30-34, A/69/347, paras. 52-69, and A/HRC/25/40, paras. 50-56). Their concerns include issues both in relation to criminal accountability and access to a remedy and reparations for victims. As noted in previous reports of the Secretary-General and underlined by the Human Rights Committee, Israel has failed to meet its obligations in this regard (see also A/HRC/29/52).

Palestinian domestic accountability

61. No investigations into alleged violations of international human rights and humanitarian law have been conducted by the State of Palestine or by the de facto authorities in Gaza to bring alleged perpetrators to justice in relation to the escalation in the summer of 2014, including the indiscriminate firing of rockets, targeting of civilians and military operations in densely populated areas (see A/HRC/28/80/Add.1, paras. 68-72).

62. The Gaza Ministry of Interior reportedly established an investigation into the circumstances of the summary executions of alleged collaborators in Gaza during the 2014 hostilities, including a number of detainees who were allegedly taken from Katiba Prison by armed masked men and summarily executed (see A/HRC/28/80/Add.1, paras. 73 and 74). In January 2015, a Ministry spokesperson said that the executions were carried out by Palestinian resistance factions. With respect to the detainees, he denied official involvement in the executions, claiming that they had escaped from prison and were captured and executed by armed groups close to the fence after they engaged in hostilities. In a statement on 27 May 2015, Hamas similarly denied any role in the executions and claimed that the Office of the Attorney General and the Ministry of Interior were continuing with the investigation and would publish their findings upon completion.

63. Palestinian human rights organizations have referred two cases to the Attorney General in Gaza of attacks on civilians by armed groups during the hostilities in the summer of 2014. In one case, the alleged victim sustained serious injuries resulting in the amputation of his legs. The Attorney General had not responded to the complaints by the end of the reporting period, but had reportedly referred them to the Internal Security Agency.

International accountability measures

64. The Commission of Inquiry established pursuant to Human Rights Council resolution S-21/1 was mandated to investigate all violations of international humanitarian law and international human rights law in the Occupied Palestinian Territory, "in the context of the military operations conducted since 13 June 2014, whether before, during or after". The Commission reported to the Human Rights Council in June 2015. Its report included recommendations aimed at promoting accountability by all sides, including a call on Israel to "break with its recent lamentable track record in holding wrongdoers accountable, not only as a means to secure justice for victims but also to ensure the necessary guarantees for non-repetition" (A/HRC/29/52, para. 76).

65. An internal and independent United Nations Headquarters board of inquiry was convened by the Secretary-General on 10 November 2014 to investigate 10 incidents that had caused death or injuries, or damage to United Nations premises, or in which the presence of weaponry was reported during the escalation in July and

August 2014. The Board of Inquiry found that Israel Defense Force attacks on seven United Nations premises had killed at least 44 Palestinians, injured approximately 227 others and damaged United Nations schools used as emergency shelters during the hostilities. It also found that Palestinian armed groups had put UNRWA schools at risk by concealing weapons in three locations (see S/2015/286, annex). Releasing the public summary of the report, the Secretary-General reiterated that United Nations premises are inviolable under international law and "should be places of safety, particularly in a situation of armed conflict" (S/2015/286).

66. On 7 January 2015, the Registrar of the International Criminal Court accepted the declaration lodged by the State of Palestine for the purpose of identifying, prosecuting and judging the authors and accomplices of crimes within the jurisdiction of the Court committed in the Occupied Palestinian Territory, including East Jerusalem, since 13 June 2014, and transmitted it to the Prosecutor for her consideration. The State of Palestine also acceded to the Rome Statute on 1 April 2015,[47] ensuring the jurisdiction of the Court over crimes committed on the territory of the State of Palestine, irrespective of the nationality of the alleged perpetrators, or by Palestinian nationals in any other State or territory. While it is for the Court to decide on its jurisdiction and the admissibility and merit of any potential case, its involvement can prompt improvements in domestic accountability mechanisms, in accordance with the principle of complementarity.

E. Treaty accession by the State of Palestine

67. During the reporting period, the State of Palestine became party to seven of the core international human rights treaties,[48] the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, the Geneva Conventions of 12 August 1949, Additional Protocol I to the Geneva Conventions and the Convention respecting the Laws and Customs of War on Land.

68. In accordance with the international legal obligations contained in those treaties, the State of Palestine has an obligation to protect and promote human rights to the greatest extent possible. At the same time, Israel, as the occupying Power, remains under an obligation to protect the human rights of the Palestinians in the Occupied Palestinian Territory in accordance with international human rights law and international humanitarian law, including with respect to Israel's international treaty obligations.[49] All duty bearers should refrain from practices which violate human rights norms.

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[47] On 2 January 2015, the State of Palestine lodged an instrument of accession to the Rome Statute with the Secretary-General as depository. On 6 January, the Secretary-General issued a notification confirming the accession of the State of Palestine. The Statute entered into force with respect to the State of Palestine on 1 April 2015 in accordance with Article 126(2).

[48] International Convention on the Elimination of All Forms of Racial Discrimination, International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights, Convention on the Elimination of All Forms of Discrimination against Women, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Convention on the Rights of the Child and Convention on the Rights of Persons with Disabilities. The two Covenants entered into force on 2 July 2014 and the other five treaties on 2 May 2014.

[49] International Court of Justice advisory opinion, "Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory", paras. 102-113.

F. Conclusion

69. The cumulative effect of the Israeli-imposed blockade on the economy of Gaza, restrictions on the ability of Palestinians from Gaza to enjoy their human rights, the catastrophic impact of the 2014 hostilities on the humanitarian crisis in Gaza, the restrictions in the access-restricted areas and the continued lack of accountability for past violations, all serve to drive conflict and further human rights violations.

70. The complete lifting of the blockade, with due consideration for Israel's security concerns, as called for in Security Council resolution 1860 (2009), would be a first critical step that would alleviate the humanitarian crisis and place Gaza on the road to recovery. Moreover, accountability for past violations of international law is a prerequisite for any sustainable solution for peace and security. Failure to address the human rights situation and the urgent humanitarian and economic crisis in Gaza will inevitably result in another cycle of violence.

IV. Recommendations

71. **The following recommendations should be read in conjunction with the numerous recommendations contained in previous reports of the Secretary-General and of the High Commissioner for Human Rights with respect to the human rights situation in the Occupied Palestinian Territory, most of which remain relevant but unimplemented.**

72. **Recommendations to the Government of Israel:**

(a) **Fully lift the blockade of Gaza and end the collective punishment against the civilian population and ensure sustainable economic recovery and development. That must entail, at a minimum, allowing the free movement of Palestinians across the Occupied Palestinian Territory and ensuring that any restrictions on freedom of movement and the transfer of goods from, into and within Gaza, are consistent with international law;**

(b) **Ensure that the use of force by the Israeli security forces, including in the access-restricted areas, and in situations other than hostilities, is in compliance with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, including by carrying out an independent review and any necessary revisions of rules of engagement or regulations on opening fire to ensure their consistency with international law;**

(c) **Carry out prompt, thorough, effective, independent and impartial investigations into allegations of unlawful killing or injury and ensure they are subject to public scrutiny; allow for meaningful victim participation in proceedings; and ensure that the results are made public and that those responsible for violations are brought to justice in fair trials. Victims must be provided with a prompt, adequate and effective remedy. As an initial step to reforming the investigative system, implement the recommendations contained in the second report of the Turkel Commission;**

(d) **Ensure full compliance with the prohibition of forcible transfer and annul any plans to relocate Bedouin and herder communities without their free and informed consent;**

(e) Grant access to Israel and the Occupied Palestinian Territory for, and cooperate with, international human rights bodies and NGOs concerned with investigating alleged violations of international law by all duty bearers.

73. **Recommendation to the Government of the State of Palestine:**

Conduct prompt, thorough, effective, independent and impartial investigations into allegations of unlawful killing, injury or summary executions by security forces and any violations of international humanitarian law by Palestinian actors. Ensure that such investigations are subject to public scrutiny, allow for meaningful victim participation in proceedings and ensure that the results are made public and that those responsible are brought to justice in fair trials. Victims must be provided with a prompt, adequate and effective remedy.

74. **Recommendations to Palestinian armed groups in Gaza:**

(a) Respect international humanitarian law, especially in relation to all rules on the conduct of hostilities, in particular, the principle of distinction, which includes a prohibition on indiscriminate attacks, and ensure accountability for violations;

(b) Declare publicly that acts amounting to violations and abuses of international human rights law and international humanitarian law will not be tolerated. All armed groups must remove from active duty those among their members suspected of having committed such acts.